

~~CORRESPONDENCE~~ ORIGINAL

~~FILE~~

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

~~DOCKET FILE COPY ORIGINAL~~
RECEIVED

DEC - 3 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PR Docket No. 93-231

DOCKET FILE COPY ORIGINAL

In the matters of)
Application of)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a CAPITOL PAGING)
For a Private Carrier Paging)
Facility on 152.480 MHz in)
Huntington/Charleston, WV)
Imposition of Forfeiture re)
CAPITOL RADIOTELEPHONE, INC.)
d/b/a CAPITOL PAGING)
Former Licensee of Station)
WNSX646 in the PLMRS)
Revocation of Licenses of)
CAPITOL RADIO TELEPHONE, INC.)
d/b/a CAPITOL PAGING)
Licensee of Stations WNDA400)
and WNWW636 in the PLMRS)
Revocation of Licenses of)
CAPITOL RADIOTELEPHONE COMPA-)
NY, INC. d/b/a CAPITOL PAGING)
Licensee of Stations KWU373,)
KUS223, KQD614 and KWU204 in)
the PMRS)

To: Administrative Law Judge Joseph Chachkin

MOTION TO DISMISS APPLICATION
AND TO DELETE HEARING ISSUE

CAPITOL RADIOTELEPHONE COMPANY, INC. (a/k/a Capitol
Radiotelephone, Inc. or Capitol Radio Telephone, Inc.) d/b/a
CAPITOL PAGING ("Capitol"), by its attorneys, hereby re-
spectfully moves to dismiss its application in File No.

No. of Copies rec'd
List ABCDE

alg

0190207 and to delete from the consolidated proceedings the issue specified in ¶28.n. of the hearing designation order.¹ In support thereof, Capitol respectfully shows:²

The hearing designation order in this proceeding, inter alia, designated for hearing an application filed by Capitol for a private carrier paging station operating on 152.48 MHz in Charleston and Huntington, WV. The HDO further provided (at ¶26) that Capitol could within 20 days elect to dismiss the application without prejudice or, alternatively, could enter an appearance with respect to the application portion of the consolidated hearing proceeding. Capitol timely entered its appearance, thereby preserving its right to prosecute the application.

However, as of November 30, 1993, Capitol entered into an agreement with RAM Technologies, Inc. providing, inter alia, that Capitol will move to dismiss its pending application or, if the application is nonetheless granted, Capitol

¹ Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing, FCC 93-381, Adopted August 3, 1993 and Released August 31, 1993 (hereinafter cited as the "HDO").

² To the extent Capitol requests deletion of a hearing issue by this motion, Capitol submits that the motion is timely pursuant to §1.229(b)(3) of the rules. On November 22, 1993, the Presiding Judge issued a Memorandum Opinion and Order, 93M-722, rejecting a consent agreement negotiated by the parties which would have dismissed Capitol's application and otherwise would have terminated this proceeding without a hearing. Capitol respectfully submits that rejection of the consent agreement constitutes good cause for filing this motion to delete at this time, and that such rejection otherwise constitutes a new development triggering a 15-day filing period within the meaning of §1.229(b)(3).

will surrender the authorization for cancellation without constructing or operating the authorized facilities. As a result of that agreement, Capitol's position has changed and it now has no intention of continuing to prosecute the application or of implementing the facilities so applied for. Under these circumstances, Capitol respectfully submits that no useful purpose would be served by expending any additional time or resources of the parties in connection with the application designated for hearing herein.

WHEREFORE, Capitol respectfully requests that its application for a private carrier paging station on 152.48 MHz pending in File No. 0190207 be dismissed, and that the issue specified for hearing in ¶28.n. of the hearing designation order be deleted.

Respectfully submitted,

CAPITOL RADIOTELEPHONE COMPANY,
INC. d/b/a CAPITOL PAGING

By:


Kenneth E. Hardman

One of Its Attorneys

KENNETH E. HARDMAN, P.C.
1255 - 23rd Street, N.W.
Suite 830
Washington, D.C. 20037
Telephone: 202-223-3772
Facsimile: 202-833-2416

December 3, 1993

CERTIFICATE OF SERVICE

I hereby certify that I have this 3rd day of December, 1993, served the foregoing Motion to Dismiss Application and to Delete Hearing Issue upon the Federal Communications Commission by delivering a true copy thereof to Administrative Law Judge Joseph Chachkin, 2000 L Street, N.W., Room 226, Washington, D.C. 20554, to Carol Fox Foelak, Esquire, Private Radio Bureau, 2025 M Street, N.W., Room 5202, Washington, D.C. 20554, and to Y. Paulette Laden, Esquire, Mass Media Bureau, 2025 M Street, N.W., Room 7212, Washington, D.C. 20554, and upon RAM Technologies, Inc. by mailing a true copy thereof to its attorney, Frederick M. Joyce, Esquire, Joyce & Jacobs, 2300 M Street, N.W., Suite 130, Washington, D.C. 20037.


Kenneth E. Hardman